

FOR YOUR INFORMATION

May 4, 2007

To: Mayor and Members of City Council

From: Milton Dohoney, Jr., City Manager

Subject: Northern Kentucky's Eastern Regional Wastewater Treatment Plant Update

This is a report on the status of objections raised by the City of Cincinnati and Greater Cincinnati Water Works (GCWW) to the Eastern Regional Wastewater Treatment Plant (ERWWTP).

As reported in previous memos, the Kentucky Environmental & Public Protection Cabinet (Cabinet), through its Division of Water, approved Northern Kentucky Sanitation District No.1's (SD1) Regional Facility Plan Update (Update) in August 2006. The Update proposes to have the ERWWTP discharge its effluent into Brush Creek, from which it will enter the Ohio River roughly eleven miles upstream of GCWW's drinking water intakes. Following Kentucky law, Cincinnati filed a petition with the Cabinet's Office of Administrative Hearings to challenge the Cabinet's approval.

As mentioned in my April 6 update, a proceeding on the challenge began on April 16 at the Cabinet's Office of Administration Hearings. On April 18, after Cincinnati had presented its evidence and legal arguments in the hearing, the Hearing Officer decided that he would recommend to the Cabinet's Secretary that the petition be dismissed, essentially holding that the Update for the ERWWTP was "...in the best interests of the environment and public." A more detailed written Report will be issued by the Hearing Officer in several weeks, with a final Order by the Secretary of the Cabinet sometime in June 2007. After review of the final Order, Cincinnati will determine whether an appeal to the Franklin County, Kentucky Circuit Court will be filed.

A separate discharge permit, known as a KPDES (Kentucky Pollutant Discharge Elimination System) Permit is expected to be issued soon to SD1. This permit, issued by the Cabinet, would allow SD1 to operate the plant and discharge its effluent. We will review the permit, and should it fail to adequately protect the Ohio River as a drinking water source, Cincinnati will immediately file a challenge of the permit with the Office of Administrative Hearings.

We continue to work toward a regional resolution to this long-standing dispute and have agreed to consider all viable options. However, we must continue to pursue available remedies through the legal and administrative processes in order to preserve our rights to do so in the future. Cincinnati has proposed formal mediation to SD1 and been twice rejected.

Additional information regarding this matter is available at GCWW's internet web site www.cincinnati-oh.gov/gcww under "Features, Protecting GCWW's Source Water – The Ohio River."

Copy: David E. Rager, Director, Greater Cincinnati Water Works